

## **REMARKS**

Applicant received and reviewed the office action dated February 17, 2005. Briefly, the Office objected to the drawings. Additionally, claims 46-48, 51, 57, 58, 60, 62 and 63 were rejected by the Office under 35 U.S.C. §102(b) as being anticipated by Yassin U.S. Patent No. 6,221,244.

The Office also rejected claims 49 and 50 under 35 U.S.C. §103(a) as being unpatentable over Yassin as applied to claim 46 above, and further in view of U. S. Patent No. 6,254,894 (Denkewicz et al.).

Claims 52, 55 and 56 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin (see above) in view of U.S. Patent No. 4,801,376 to Kulitz. Claims 53 and 54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin in view of Kulitz as applied to claim 52 above, and further in view of Spector or Denkewicz. Also, rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin is claim 59. Claim 61 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin as applied to claim 57 above and claim 64 as applied to claim 63 above, and further in view of Kulitz.

## **Objections**

It is noted that the Office objected to the drawings but no explanation was provided as to the reason for the objection. The Applicant requests clarification.

**Rejection under 35 U.S.C. §102(b)**

The Office rejected claims 46-48, and 51 under 35 U.S.C. §102(b) as being anticipated by Yassin U.S. Patent No. 6,221,244. To support this rejection, the Examiner states on page 2, lines 12-15:

“The device 24 is supported by a wall of the housing, where it is attached by a suction cup. Since a suction cup is not a rope or “tether”, the device is considered to be “untethered” as recited in instant claim 1.”

In response to the Office’s comments, the Applicant amended claims 46 and 47 by changing “untethered” to “free standing”. It is submitted that since Yassin attaches device 24 to the swimming pool wall with suction cup 44 (Figure 2) , that calling for a “free standing device” places rejected claims 46-48 and 51 in allowable condition.

Additionally, the Office rejected claims 57, 58, 60 and 62 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,221,244 to Yassin. The Office refers to Figures 1-2 and the brief description of the drawings in columns 2-3 to support the rejection.

The Applicant amended claims 57, 58 and 62 to specifically call for a “free standing” water treatment device. Yassin teaches a swimming pool chlorinator with the housing having mounted thereon a suction cup. The suction cup is to be secured to a swimming pool wall. Therefore, it is submitted that a “free standing” water treatment device is not anticipated by Yassin and thus, the amendment to claims 57, 58 and 62 places rejected claims 57, 58, 60 and 62 in allowable condition.

Finally, independent method claim 63 is rejected under 35 U.S.C. §102(b) as being anticipated by Yassin. To support this rejection, the Office cites on page 3, lines 4-7:

“The water treatment device of Yassin comprises chlorine tablets, which are not disclosed as being buoyant or able to float in the water, and which are known in the art of pool treatment to have insufficient buoyancy to float in the water.”

The Applicant amended claim 63 to specifically call for a “free standing” container. It is submitted that a “free standing” container is not anticipated by Yassin who teaches a chlorinator with suction cup mounted to the housing to be secured to the swimming pool wall. Therefore, it is submitted that amended claim 63 is in allowable condition.

**Rejection under 35 U.S.C. §103(a)**

The Office also rejected dependent claims 49 and 50 under 35 U.S.C. §103(a) as being unpatentable over Yassin as applied to claim 46 above, and further in view of U. S. Patent No. 6,254,894 (Denkewicz et al.). Specifically, the Office notes that Yassin discloses the swimming pool water treatment system, which encompasses a chlorine tablet.

In addition, the Office observes that the Applicant’s claim differs in that the device includes a metal ion yielding water treatment material, which is silver chloride (claim 50). And it is noted that Spector and Denkewicz teach silver chloride, as an alternative to chlorine for treating water in a swimming pool.

The Applicant amended claims 49 and 50 to specifically call for a “free standing” water treatment device. Yassin, Spector and Denkwicz do not specify a “free standing” water treatment device. In fact, Yassin teaches a pool chlorinator with suction cup mounted to the housing to be secured to the swimming pool wall while Spector teaches a method for inhibiting growth of algae in swimming pools by introducing silver chloride onto a filter in a re-circulating system and Denkwicz discloses a method of treating or purifying water in swimming pools and spas by introducing a composition of silver and a second material, such as aluminum or zinc metal. Since the Applicant has not found any teachings of a “free standing” water treatment device, it is submitted that amended claims 49 and 50 are in allowable condition.

Claims 52, 55 and 56 are rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin (see above) in view of U.S. Patent No. 4,801,376 to Kulitz. It is submitted that the Office’s rejection claims 52, 55 and 56 under 35 U.S.C. §103(a) is in error.

First, consider the art of Yassin and Kulitz. Yassin discloses a spot chlorinator for swimming pools to chlorinate areas of the swimming pool that are not receiving an adequate amount of chlorine (col 1, lines 44-56). Yassin recognizes the problem of a floating dispenser moving and staying in one particular location and areas of the pool that do not receive adequate chlorine (col 1) and uses a suction cup to secure his chlorinator in place.

Kulitz, on the other hand, teaches an aboveground device for cleaning swimming pools. Kulitz recognizes the problem of difficult use, relatively long cleaning time, filter contamination, high back flushing losses of swimming pool water and limited tank capacity (col 1). He discloses a mobile cleaner for swimming pools with a suction mechanism for the liquid to be cleaned which has a suction connection, a wet filter and a recycling mechanism (col 1, lines 9-14). And more specifically, Kulitz teaches a vacuum pump protected by a float valve above the maximum possible water level (col 8, lines 6-17). Thus Kulitz teaches removing particles from the water through a filter and vacuum pump while Yassin teaches adding material to the swimming pool. It is submitted the references teach in opposite directions.

It is submitted that Yassin and Kulitz run counter each other and thus the combination fail to suggest a free standing device that operates below the water line. Thus independent claim 52 and dependent claims 55 and 56 are in condition for allowance.

Claims 53 and 54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin in view of Kulitz as applied to claim 52 above, and further in view of Spector or Denkewicz. In view of the unobviousness of the combination of Yassin and Kulitz as pointed out above, it is submitted that dependent claims 53 and 54 are allowable.

Also, rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin is dependent claim 59. To support this rejection, the Office states on page 5, lines 20-23 that:

“Yassin discloses the device for introducing a chemical into a swimming pool as described in the above rejection of claim 57. Claim 59 differs from Yassin by

reciting that the device is below a water line of a water volume in a spa or hot tub.”

The Applicant amended claim 59 to call for a “free standing” device. It is submitted that the amendment to independent claim 57 and dependent claim 59, calling for a “free standing” water treatment device, in addition to the below water line specification of the Applicant’s disclosure, places dependent claim 59 in condition for allowance.

Claim 61 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin, as applied to claim 57 above, and further in view of Kulitz. The Office distinguishes that claim 61 differs from Yassin in that the device is free standing.

Independent method claim 57 was amended to call for a “free standing” device and thus places claim 57 in allowable condition. Consequently, it is submitted, that dependent method claim 61 is in allowable condition.

Additionally, dependent method claim 64 is rejected under 35 U.S.C. §103(a) as being unpatentable over Yassin as applied to claim 63 above, and further in view of Kulitz. In view of the amendment to place independent claim 63 in allowable condition, it is submitted that dependent claim 64 is also in allowable condition.

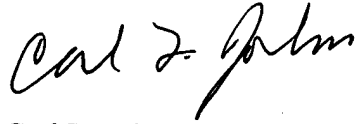
In view of the above, it is submitted that claims 46-64 are allowable and a notice of allowance, as amended, is respectfully requested. Applicant has enclosed a marked-up version of the amendment with this response.

Enclosed is a Petition for Extension of Time under 37 CFR 1.136 (a) requesting a one-month extension. Please charge the \$60.00 fee to deposit account number 10-0210.

Respectfully submitted,

**JACOBSON AND JOHNSON**

By

A handwritten signature in cursive script, appearing to read "Carl L. Johnson".

Carl L. Johnson, Reg. No. 24,273

Attorneys for Applicant

Suite 285

One West Water Street

St. Paul, Minnesota 55107-2080

Telephone: 651-222-3775

Fax: 651-222-3776